

CERTIFIED

Person to Contact: [REDACTED]
Telephone Number: [REDACTED]
Refer Reply to:
Internal Revenue Service
[REDACTED]

Date: JUL 31 1990

Dear Applicant:

We have considered your application for recognition of exemption under Section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

According to your Articles of Incorporation, the purpose of your association is to maintain the common areas, the water system and roads within [REDACTED] and to enforce the restrictive covenants of record pertaining to said subdivision. Every person owning a lot in the [REDACTED] subdivision shall be a member of your association.

The following statements appeared in your application:

The association, at the association's expense, shall pipe water to the property line of each lot, at a place to be determined by the Executive Board.

Connection to the water line shall be done in a manner approved in writing by the Executive Board, at the expense of the owner of such lot.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	7/24/90	7/20/90	7/20/90	7-20-90	7-20-90	7-30-90

Lot owners pay assessments for the maintenance and operation of the water system, the maintenance and costs of road repairs; and dues to cover administration costs such as postage, printing and office supplies. Vacant lots are mowed 3 times yearly with the respective lot owners being assessed for the mowings. Homeowners who are tapped into the system pay \$ [REDACTED] yearly, while lot owners who have not tapped into the water system pay 1/4 the rate.

According to the financial data submitted, your sole source of income is member assessments. Your expenses are administration expenses, road surface repairs and mowing expenses for members' lots. Your water expenses include well house repairs, insurance on pumps and electricity.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1 of the Income Tax Regulations states (a) Civic organizations-(1) In general. A civic league or organization may be exempt as an organization described in Section 501(c)(4) if--(i) It is not organized or operated for profit; and (ii) It is operated exclusively for the promotion of social welfare. (2) Promotion of social welfare - (i) In general. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d) (2) of Section 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of Section 1.501(c)(3)-1. (ii) Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. A social welfare organization may qualify under Section (c)(4) even though it is an "action" organization described in paragraph (c)(3) (ii) or (iv) of Section 1.501(c)3-1 if it otherwise qualifies under this Section. (b) Local associations of employees. Local associations of employees described in section 501(c)(4) are expressly entitled to exemption under Section 501(a). As conditions to exemption, it is required (1) that the membership of such an association be limited to the employees of a designated person or persons in a particular municipality, and (2) that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes. The word "local" is defined in paragraph (b) of Section 501(c)(12)-1. See paragraph (d)(2) and (3) of Section 1.501(c)(3)-1 with reference to the meaning of "charitable" as used in this Section.

Rev. Rul. 74-99, 1974-1 C.B. 131, which modified Rev. Rul. 72-102, holds that a homeowners association formed in conjunction with a real estate development is prima facie presumed to be operated for the private benefit of its members. In order to overcome this presumption, a homeowners association must have the following characteristics:

1. It must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

Your organization does not qualify for exempt status under Section 501(c)(4) because you have not met the requirements of the above Revenue Ruling. Access to your water system facility is not extended to the general public but is restricted solely to members of your association who must first purchase a lot in the subdivision. In addition, your moving service for members is an activity directed to the exterior maintenance of private residences. The above activities do not promote social welfare of the community as a whole but rather serve the private interest of your members. Accordingly, we hold that you are not exempt from Federal income tax as a social welfare organization under Section 501(c)(4) of the Code and are required to file Federal income tax returns annually.

A homeowners association that is not exempt under Section 501(c)(4) and that is either a condominium management association or a residential real estate management association generally may elect, under the provisions of Section 528, to receive certain tax benefits that, in effect, permit the exclusion of its exempt function income from its gross income. The election is made each year by filing Form 1120-H. For more information, see Publication 588, Tax Information for Homeowners Associations.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

[REDACTED]

If we do not hear from you within 30 days from the date of this letter this determination will become final.

Please keep this determination letter in your permanent records.

If you agree with this determination please sign and return the enclosed Form 6018.

Very truly yours,

[REDACTED]

District Director

Enclosures:
Publication 892
Form 6018